



# **SiART**

Nova Scotia's Independent  
Police Investigation Agency

**TRUST**

**CONFIDENCE**

**INTEGRITY**

**INDEPENDENCE**

Annual Report  
2014-2015



October 26, 2015

Honourable Diana Whalen  
Minister of Justice  
1690 Hollis Street  
PO Box 7  
Halifax, NS B3J 2L6

Dear Minister Whalen:

I have the honour and pleasure of delivering to you the third annual report of the Nova Scotia Serious Incident Response Team. This report is mandated by Section 26N of the *Police Act*.

This report covers SiRT operations from April 1, 2014 to March 31, 2015.

The report provides the statistics required by Section 26N of the *Police Act*, and Section 10 of the Serious Incident Response Team Regulations made under the *Police Act*. I also provide general information about the Team, and include comments about the Team's operations, observations about our work and some of the challenges we have faced over this time frame. In addition, the report includes our proposed goals for the upcoming year.

The Serious Incident Response Team continues to be proud of the work we do and the role we are able to play in Nova Scotia's justice system. We thank you for the opportunity to work on behalf of the public of Nova Scotia in this capacity.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Ronald J. MacDonald".

Ronald J. MacDonald, QC  
Director

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## Message from the Director



**Ronald J. MacDonald, QC**

This report marks the completion of three years of service to the public of Nova Scotia by the Serious Incident Response Team. On behalf of all the members of the team I can say that we continue to welcome the challenge of providing independent oversight of serious incidents involving the police in Nova Scotia.

We would also like to thank the public of Nova Scotia for their acceptance of our role in Nova Scotia's justice system. It would seem SiRT has become an integral part of the administration of justice in our province, recognized by the public as an institution that enhances the public's confidence in their police forces by virtue of an effective oversight process. We are fortunate to

have the opportunity to fulfill this role.

This past year saw SiRT face some significant challenges. One of these was the Clayton Miller investigation. That investigation, which was designed to determine if police officers were currently covering up critical evidence with respect to young Mr. Miller's death in May of 1990, required a complete and thorough review of the entire case. That involved an examination of evidence gathered over the 25 year period since Mr. Miller's death, as well as the gathering of new evidence where available. This was a massive undertaking for SiRT, and occupied a very significant part of the lead investigator's and my time from November, 2014 to April, 2015. That included the painstaking review of over 17,000 pages of information and other evidence, as detailed in my report issued on April 16, 2015. While I believe this report, and the report completed by Dr. Matt Bowes, Nova Scotia's Chief Medical Officer, were a critical contribution to the justice system response to this issue, it was extremely time consuming and resource intensive. Cases such as this will always be a challenge for a unit whose resources are limited.

The second significant challenge faced by SiRT flowed from the fact we opened 34 new investigations during the year. The first three years have seen investigation numbers grow consecutively from 22, to 25, to 34. SiRT is now handling a workload almost 75% greater than originally anticipated. A complete breakdown of those files by agency, investigations conducted, and investigations where charges were laid are included later in the report. During the year, SiRT concluded work on 26 files, some of which were opened prior to the present year.

In addition to that work, SiRT opened 9 "Review Files". These are files where investigative work is carried out to determine whether a matter meets SiRT's mandate under subsection 26I(3) of the *Police Act*. They can often require significant time expenditure. On top of those matters, 59 other referrals were received which did not meet SiRT's mandate; 35 from police, and 24 from members of the public. A referral involves a request or inquiry about whether a matter meets SiRT's mandate. Typically police referrals are dealt within a relatively short period of time. Some public referrals may involve additional resources, generally expended to ensure the member of the public has had an opportunity to fully explain the nature of their matter, and for SiRT to fully explain why a matter did not meet our mandate.

As a result of the increased workload resulting from the increased file numbers, it was sometimes necessary to make use of seconded resources from police agencies to assist our investigators. This was always done in a way that ensured the effectiveness of our independent oversight, even with that assistance, the increased workload nevertheless placed a strain on SiRT's resources. This had an inevitable impact on the timeliness of our investigations and the ability to complete and publish the Director's summaries of investigations.

In addition, the increased workload impacted our ability to meet the organizational goals proposed in last year's report. In simple terms, time intended to be devoted to completion of some of those goals had to be directed to fulfilling SiRT's core mandate of conducting investigations and reporting to the public. While some aspects of the goals were completed, most have been included in this year's goals for completion during this fiscal year.

One improvement of some significance realized this year was the development of policy and training materials for persons to act as Acting Director. Until amendments were made to the *Police Act* in 2014, the Act did not allow for anyone other than the Director to make the decision to commence an investigation or to lay charges. The practical significance of this was that the Director, who generally must be available to receive referrals every day on a 24 hour basis, was required to receive and decide on referrals and cases even while on leave. The *Police Act* and amendments now allow for the appointment of a member of the Public Prosecution Service (PPS), to act as Acting Director during times when the Director is on scheduled leave. Three members of the PPS have been trained to fill that role, one having successfully acted in February of 2015. I am grateful for the cooperation of the PPS in the design and establishment of this system.

As can be seen from the information contained within this report, in the past year three charges were laid against police officers. One arose from allegations of assault during an arrest, and the others, one charge of domestic assault and one of sexual assault, related to off duty conduct. Off duty conduct has the significant potential to impact the confidence of the public in police and SiRT's ability to assume responsibility for these investigations is key. This is particularly the case where the facts do not justify the laying of a charge, as it allows the public to see that the decision is made only after an independent investigation.

Not surprisingly, the majority of injuries that occur from an interaction with police arise during the attempted arrest of individuals, often during a pursuit of a fleeing suspect, either on foot or in a motor vehicle. This highlights the need for constant evaluation by police agencies of their policies regarding their use of force and vehicle pursuits. Having said that, in each case that has been completed to date the police conduct has been found to have been justified.

During the year I had the opportunity to take part in national meetings with colleagues from other provinces responsible for the independent oversight of policing. These meetings allow for the critical sharing of ideas and experience, and are of great benefit. Indeed, I am now participating in an advisory capacity to a program being developed by the Canadian Association of Civilian Oversight of Law Enforcement which is being designed to provide opportunities for academic research in the area of police oversight. Given the importance of this area, the time for this type of research is long overdue. It is hoped this will be a benefit to all agencies across the country, and perhaps beyond.

In the upcoming year, SiRT faces the challenge of an ongoing increased workload, as well as attempting to meet the organizational goals carried over from last year. The increased workload is of particular concern, and may result in the completion of investigations at a somewhat slower

rate than desired. However, overall SiRT has been able to meet the increased demand and expects to continue to do so in the future. We appreciate the understanding of the public and police agencies shown to us to date in this regard.

Before concluding, I take this opportunity to acknowledge the personnel at SiRT who work hard every day to carry out SiRT's mission: to ensure the public of Nova Scotia are able to have the utmost trust and confidence in the investigation of serious incidents involving police. They take their role very seriously, and understand its significance to Nova Scotians.

All of us at SiRT are honoured and challenged by the role we play in Nova Scotia's justice system. We are thankful for this opportunity to serve.

## The Team

The Serious Incident Response Team includes:

- Director (Civilian). The first and current Director of SiRT is Ron MacDonald, Q.C.
- Two former police, now civilian investigators, each with over 36 years of criminal investigative experience. These are Terry Balleine and Keith Stothart.
- Two full-time seconded police officers who answer only to the Director while seconded, one from the Halifax Regional Police, S/Sgt. Don Moser (until Dec. 31/14) and one from the Royal Canadian Mounted Police (RCMP), S/Sgt. John Langille. (Not shown: S/Sgt. Reid McCombs, who assumed S/Sgt. Moser's position on January 1, 2015.)
- Other police resources as required.
- Administrative support provided by Joanne Fisk.



*The SiRT Team from left to right: Don Moser, Seconded Investigator, Keith Stothart, Civilian Investigator, Ron MacDonald, Director, John Langille, Seconded Investigator, Terry Balleine, Civilian Investigator. Missing from photo: Joanne Fisk*

The team operates independently of law enforcement agencies, with decision-making authority residing with the civilian team Director.

The combination of civilian investigators and seconded police officers is required to achieve a balance between independence and operational effectiveness.

Under the sections of the *Police Act* which created SiRT, a current or former police officer cannot be the Director.

The budget of the Team is about \$850,000 annually. The Province covers all administrative and overhead costs associated with the Director, provincial investigators, administrative support, and operational expenses. Seconded police resources are provided by the relevant police agency.

## Mission and Mandate

The mission of the Nova Scotia Serious Incident Response Team is:

**“To ensure Nova Scotians have the utmost trust and confidence in the investigation of serious incidents involving police.”**

SiRT’s mandate is to investigate all matters that involve death, serious injury, sexual assault and domestic violence or other matters of significant public interest that may have arisen from the actions of any police officer in Nova Scotia.

SiRT defines a serious injury as including:

- fractures to limbs, ribs, head or spine;
- burns, cuts, or lacerations which are serious or affect a major portion of the body;
- loss of any portion of the body;
- serious internal injuries;
- any injury caused by gunshot;
- admission to hospital as a result of the injury (not including outpatient care followed by release).

At the conclusion of every investigation, the Director of SiRT will determine whether or not criminal charges should result from the actions of the police officer. The Director will issue a public summary of the investigation that will outline the reasons for that decision.

### Independence

SiRT is independent of government and police. The Director of SiRT is a civilian, and is responsible for the general direction of all investigations and deciding whether a charge should be laid. This ensures a more transparent and independent way to investigate serious incidents involving police.



## Investigative Process

**How do we decide if we should be involved?** The Director receives a referral, or assumes a case on the Director's own initiative and after considering the nature of the incident determines whether the matter fits our mandate.

Cases will often meet the mandate even though there is no allegation of wrongdoing on behalf of the police.

**How do we respond?** If the matter does not fit SiRT's mandate, no investigation is conducted. The police service or the member of the public, who made the referral, is notified.

If the matter fits SiRT's mandate, a primary SiRT investigator and as many additional investigators as necessary are assigned to the case. The Team attends the incident scene as quickly as possible and an investigation begins.

**What happens when SiRT conducts an investigation?** SiRT engages in a thorough and balanced investigative process, which generally includes (but is not limited to), the following:

- examining the scene and securing all physical evidence;
- monitoring the medical condition of anyone who has been injured and consulting with medical personnel about the nature and cause of injuries;
- locating and securing the cooperation of all witnesses, including police witnesses. This will likely involve the canvassing of the area where the incident occurred for additional witnesses;
- seizing police equipment for forensic examination;
- having all forensic examination conducted as necessary in the case;
- consulting with the medical examiner if there has been a death;
- notifying next of kin and liaising with the family of the deceased or injured parties to keep them informed;
- appointing a community liaison to work with the affected party and the Team, where appropriate.

During the course of the investigation, the SiRT investigative team prepares various internal reports and attends investigative team meetings designed to keep the Director informed of their progress. Upon completion of the investigation, the primary investigator is required to submit an investigative report, which is reviewed by the Director.

SiRT will usually issue a media release at the outset of a case to assure the public that an independent investigation of the serious incident has begun. Other releases may occur during investigations as necessary.

After SiRT becomes involved, police may need to continue their criminal investigation into the initial incident. For example, police may have been responding to a robbery when they became involved in the serious incident. SiRT works with the police agency to ensure that the interests of justice are met.

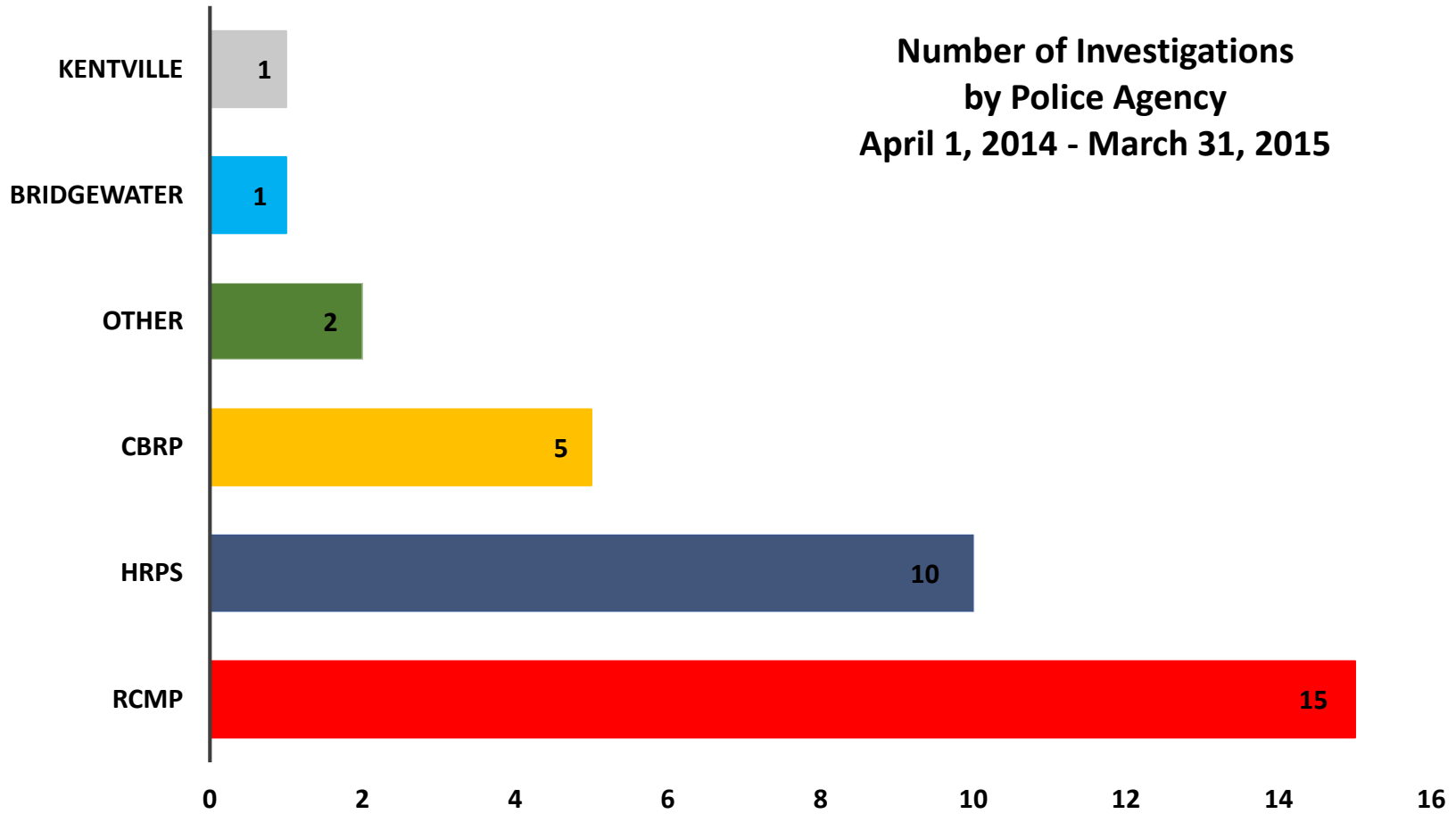
**Who decides what happens after the investigation?** The Director determines whether a charge should be laid in relation to the actions of the police who were the subject of the investigation. Throughout the investigative process SiRT liaises, as necessary, with the NS Public Prosecution Service (Crown). If a charge is laid, SiRT turns the case over to the Crown for prosecution and the SiRT investigator(s) may provide support to the Crown in its prosecution.

**What information is made available?** At the end of an investigation the Director of SiRT is required to make a summary of the investigation available to the public. That summary, subject to the *Freedom of Information and Protection of Privacy Act* and the needs of the investigation, will provide the information necessary to explain the reasons behind the Director's decision.

**What about those involved?** Particular attention is paid to the need for the affected person or next of kin to have a full understanding of the investigative results. This is generally accomplished through direct personal contact by the lead investigator and the Director. Similar contact is made with the police officer(s) who is (are) the subject of the investigation.

## Number of Investigations by Police Agency

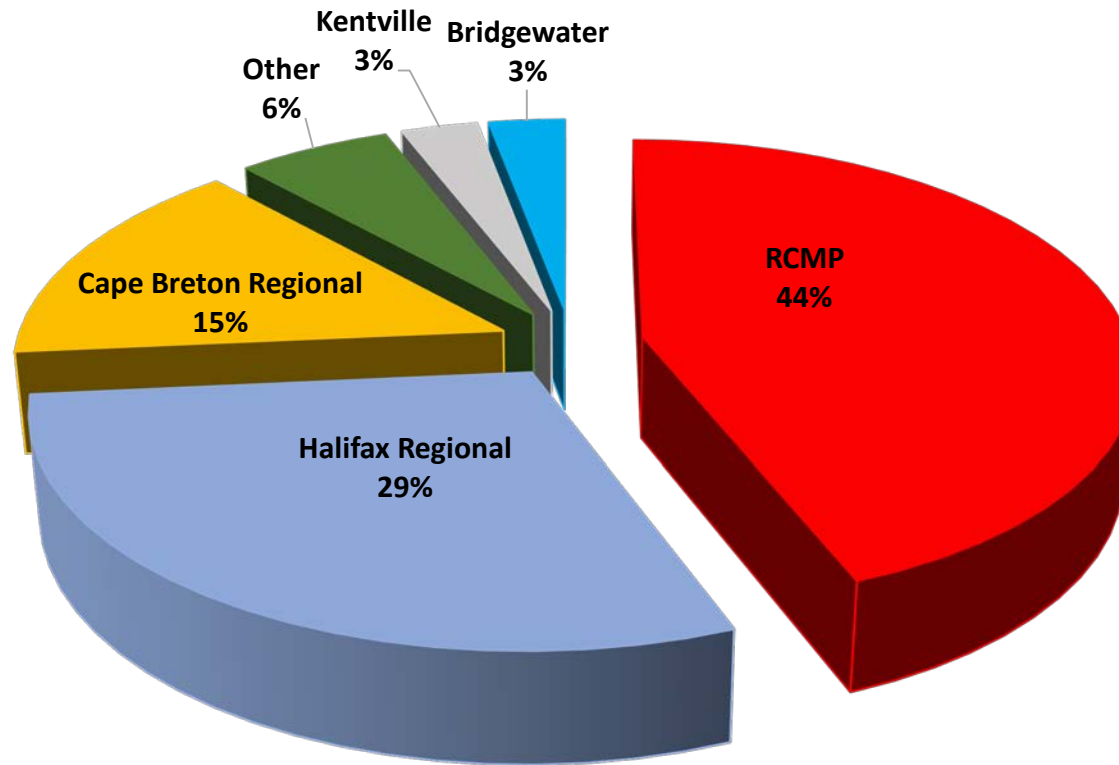
SiRT conducted 34 investigations in its third year of operations; 9 more than the previous year.



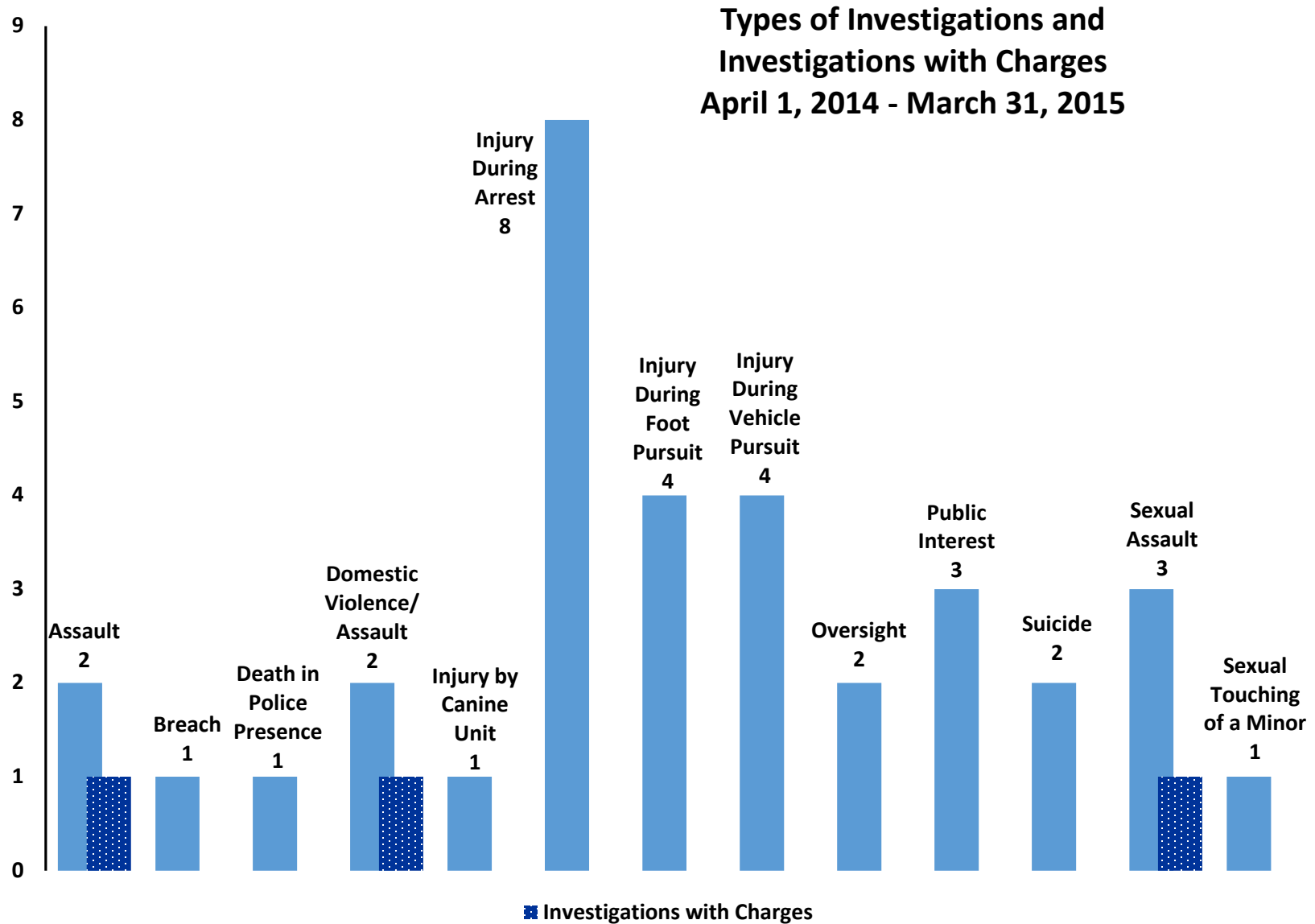
\*SiRT did not have any investigations during this reporting period for the following police agencies:  
Amherst, Annapolis Royal, New Glasgow, Springhill, Stellarton, Truro, Westville

**Percentage of Total Investigations by Police Agency**

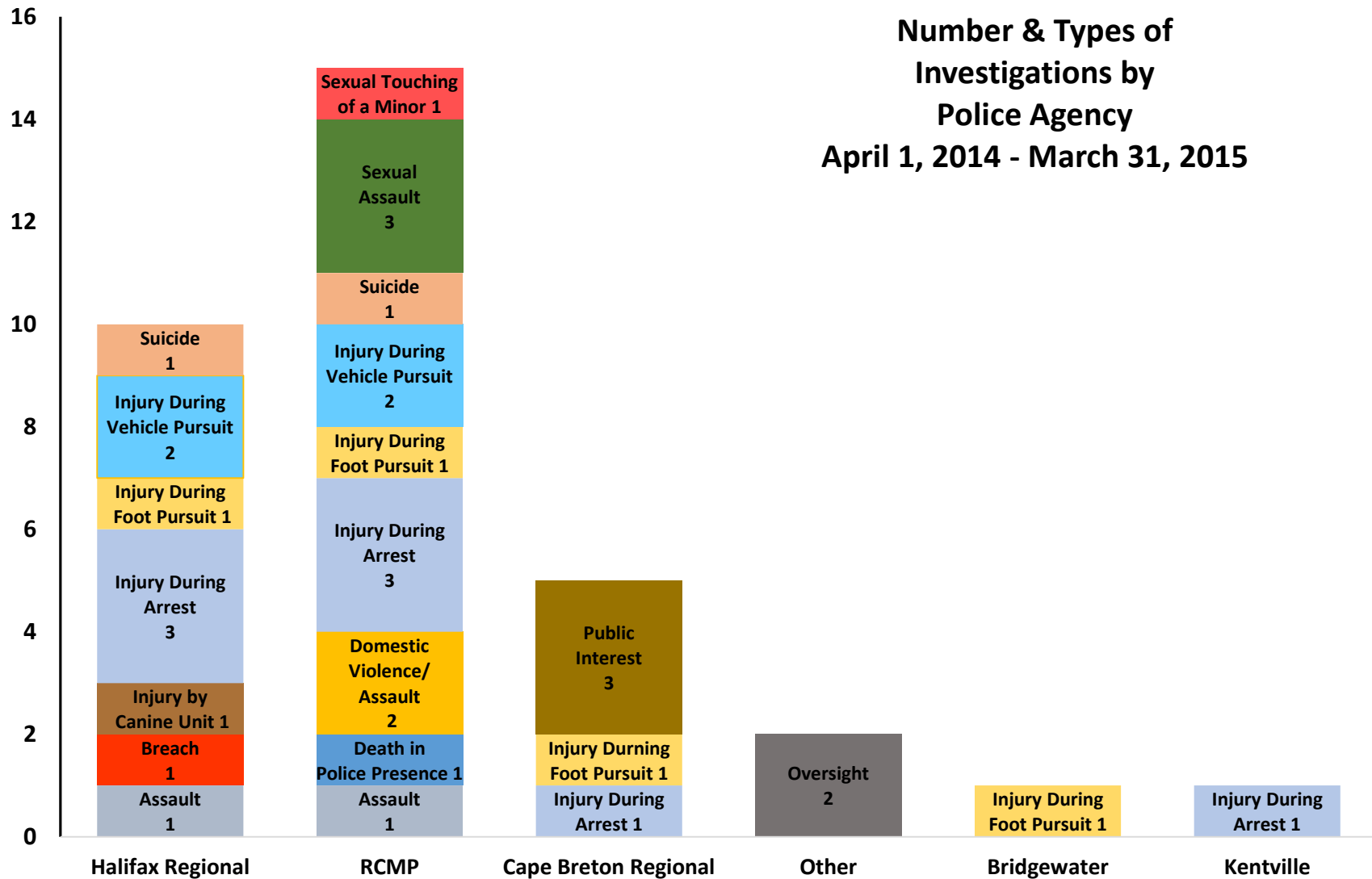
**Percentage of Total Investigations by Police Agency  
April 1, 2014 - March 31, 2015**



## Types of Investigations & Investigations with Charges



## Number & Types of Investigations by Police Agency



## SiRT Team Goals 2015-2016

Issue	Desired Outcome	How to get there	Timeline to Completion of Goals
Police Supervisors and Front Line Personnel need SiRT resource materials	<ol style="list-style-type: none"> <li>1. Police Supervisors will understand when and how to contact SiRT in a timely manner regarding cases involving a possible Serious Incident.</li> <li>2. Front Line police will be able to identify situations that may involve a Serious Incident and require notification of their supervisor</li> </ol>	<ol style="list-style-type: none"> <li>1. Develop training material for Police management and Front Line personnel that explains SiRT's mandate, the definition of Serious Incident, and gives practical advice about the steps to take whenever a serious incident may have occurred.</li> </ol>	March 31, 2016
Enhancement of Public's understanding of SiRT, its mandate, and processes	<ol style="list-style-type: none"> <li>1. Public will understand the mandate of SiRT and how it carries out its role.</li> <li>2. Public will understand the distinction between SiRT and the Office of the Police Complaints Commissioner.</li> </ol>	<ol style="list-style-type: none"> <li>1. Develop overall communications strategy.</li> <li>2. Implement communication enhancements on website.</li> <li>3. Develop and distribute hardcopy SiRT flyer for public education.</li> </ol>	March 31, 2016
SiRT's investigations have identified issues that impact on the number of serious incidents occurring in Nova Scotia	<ol style="list-style-type: none"> <li>1. SiRT will identify particular issues that may require the development of alternate policies and approaches to social issues and policing practices that may reduce the number of serious incidents.</li> </ol>	<ol style="list-style-type: none"> <li>1. Identify two relevant issues for 2015-16</li> <li>2. Present the issues to relevant parties and government agencies.</li> <li>3. Assist with discussions designed to consider alternate approaches.</li> </ol>	March 31, 2016
Community Involvement	<ol style="list-style-type: none"> <li>1. Continue to enhance the visibility and understanding SiRT in all communities.</li> </ol>	<ol style="list-style-type: none"> <li>1. Deliver presentations directly to community groups.</li> </ol>	March 31, 2016
SiRT investigators need ongoing training	<ol style="list-style-type: none"> <li>1. SiRT investigators will receive regular training opportunities.</li> </ol>	<ol style="list-style-type: none"> <li>1. Work to identify appropriate training for SiRT investigators.</li> <li>2. Training will be provided on regular basis.</li> </ol>	March 31, 2016



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